



Hague Convention on International Adoption



Hague Convention on Protection of
Children and Co-operation in Respect of
Intercountry Adoption

Signed by U.S. in 1994,
Advice and Consent of Senate 2000

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- Existing Problems and how
the Hague Convention
helps fix them



Need a single source for information

- * Hague requires a Central Authority (DOS) which will coordinate information on U.S. state and federal laws relevant to adoptions**
- * Each Hague signator country will also have a Central Authority**



Foreign Govt.s want U.S. assurance that agencies/facilitators are legitimate and post-placement service will be provided

- * Central Authority keeps a database regarding accredited agencies**
- * Central Authority has the power to regulate accredited agencies**
- * Central Authority will promote post-placement services**



Child is adopted overseas but does not meet orphan definition and cannot immigrate to the U.S.

- * Hague requires eligibility to immigrate be determined before adoption or placement for adoption occurs**
- * Hague does not require that a child be an orphan**



Adoptive parents are not adequately prepared and counseled for International Adoptions

- * Hague calls for all prospective parents to receive counseling before adoption and post-placement follow up**

Breakdown of the
Intercountry Adoption Act
(IAA)



Signed October 6, 2000

What Does the Department of State do?


- * IAA designates DOS as Central Authority**
- * DOS coordinates all information**
- * DOS controls the accreditation process**
- * Including penalties and suspensions**
- * DOS issues Certificate of Final Adoption or Declaration that Legal Custody has been granted for purposes of emigration and adoption**

What does the INS do?

- * INS role is mostly unchanged**
- * INS will gather information regarding adoptions for a central database**
- * Definition of adopted children expanded to include many children who are not orphans**
- * INS will use Certificate of Final Adoption or Custody as evidence of relationship**

Certificate of Adoption or Custody

- * DOS issues a Certificate of Adoption, or**
- * Declaration that legal custody has been granted for purposes of emigration and adoption**
- * If:**
- * Country of origin Central Authority verifies that all requirements of the Convention and the IAA are met with respect to the adoption**



Certificate of Adoption or Custody

- * The certificate, together with the original adoption decree, is conclusive evidence that the child is eligible to immigrate**
- * A final adoption in a Hague Country, certified by DOS, shall be recognized as final and valid in the U.S.**

INA Amendments in the Act

- ✧ **INA Sec. 101(b)(1)(G) creates a new category of “child”**
- ✧ **Definition of child expanded to include children who are not orphans.**
- ✧ **If both natural parents are alive they must be incapable of providing proper care; and**
- ✧ **INS must be satisfied purpose of adoption is to form a bona fide parent-child relationship; and**
- ✧ **The parent-child relationship with the natural parents has been terminated.**

Section 101(b)(1)(G)(i)(II)

The Text

- * The child's natural parents (or parent, in the case of a child who has one sole or surviving parent because of death or disappearance of, abandonment or desertion by, the other parent), or other persons or institutions that retain legal custody of the child, have freely given their written irrevocable consent to the termination of their legal relationship with the child, and to the child's emigration and adoption.**

Section 101(b)(1)(G)(i)(II)

The Text

- * In the case of a child having two living natural parents , the natural parents are incapable of providing proper care for the child;**

Section 101(b)(1)(G)(i)(IV)

The Text

- * The Attorney General is satisfied that the purpose of the adoption is to form a bona fide parent-child relationship; and the parent-child relationship of the child and the natural parents has been terminated**
- * (and in carrying out both obligations under this subclause the Attorney General may consider whether there is a petition pending to confer immigrant status on one of both of such natural parents)**

So where are we at?

- ✧ **The Intercountry Adoption Act of 2000 was signed on October 6, 2000**
- ✧ **At that time, the Department of State estimated it would take 24-36 months to prepare regulations for the law.**
- ✧ **When regulations are in place the United States will accede to the Hague Convention on Intercountry Adoption by placing the instruments of ratification with the Permanent Bureau of the Hague**
- ✧ **Then the IAA will go into effect.**

